IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3138 OF 2004

Smt. Neelabai Banssidi Kale ... petitioner
vs.
State of Maharashtra & ors. ... respondents

Mr. B. G.Vaidya for petitioner.
Mr. Nitin Mulye h/f. G.S.Godbole for respondent no. 6
Mr. R.M. Patle AGP for respondent no.1 to 5.

CORAM: **MRS. ROSHAN DALVI J.**

DATE:13/3/2006

P.C.:

Rule. Returnable forthwith.

This writ petition challenges the order of respondent no.2 dated 26.2.04 passed against the order in revision respondent no.3 dated 18.11.03. The petitioner applied to respondent no.4 under the Maharashtra Scheduled Commodities (Regulation and Distribution) Order 1975. From the order of respondent no. 4, the respondent no.6 preferred an appeal before respondent no.3. By the order dated 18.11.03 respondent no.3 remanded the matter to respondent no.5 for disposal. Respondent no.5 did not dispose of the application and hence the respondent no.6 filed a second revision before respondent no.2. respondent no.6 has obtained an ex parte order of stay of the orders of the respondents 3 and 5, which is challenged in this writ petition.

The petitioner has relied upon the order dated 19.3.2002 of

Justice Rebello in writ petition no. 1485 of 2002 in which it has been held that under the Maharashtra Scheduled Commodities (Regulation of Distribution) Order 1975, a second revision does not lie.

Respondent no.6 has shown Rule 15 of the Maharashtra Scheduled Commodities Retail Dealers Licensing Order 1979. Appeal from the order of Licensing Authority is maintainable under Rule 15. Under Rule 16 a review or revision is maintainable also against the order passed by the Licensing Authority or any other competent authority under that order. Rule 16 therefore does not contemplate a revision from the order in appeal. It contemplates a revision from the order of the Licensing Authority. Hence even under these orders the second revision does not lie. Consequently the order granting ex-parte stay in this writ petition requires to be considered.

Advocate for respondent no.6 states that because respondent no.5 did not dispose of the initial application which was remanded by respondent no.5, a second revision was filed. In the interest of justice therefore respondent no.5 must be directed to dispose of the initial application on merits before him. respondent no.5 shall dispose of the application of the petitioner within 6 months of receiving this order with notice to both the parties. Writ petition disposed of accordingly.

(**MRS. ROSHAN DALVI J.**)